

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
 v.) CRIMINAL NO. 04-10192-NG
)
 CARLOS RUBEN RIVERA)

DEFENDANT'S REQUEST TO MODIFY CONDITIONS OF PRETRIAL RELEASE

Defendant, Carlos Ruben Rivera, moves that this Court modify the conditions of his pretrial release. Specifically, defendant requests that the Court change the 7:00 p.m. to 5:00 a.m. curfew now in effect by extending the evening curfew to 9:00 p.m. As reasons therefore, defendant states the following:

1. The defendant first appeared in this matter upon his arrest on June 14, 2004. After initially ordering detention, Magistrate Judge Swartwood on September 14, 2004 conditionally released the defendant to his home in New Bedford. The defendant signed an appearance bond in the amount of \$50,000 to ensure his continued appearance.
2. As additional conditions, the defendant was placed on a curfew (monitored by telephone), ordered to seek and maintain employment, and ordered not reside with his wife (from whom he is separated).
3. The defendant has remained in New Bedford since his release and has been subject to telephone monitoring to enforce the curfew condition.
4. This Court recently allowed defendant's motion to order a Pre-plea Presentence Report and has scheduled a consolidated Rule 11 and sentencing hearing for July 26, 2005.
5. Pretrial Services reports that the defendant has been compliant with all of the conditions of release, including the curfew. No new criminal activity has been reported.

6. The defendant, a union-employed heavy machinery operator, was working until December 2004 when he was seasonally laid off. The curfew hours initially set by the Magistrate Judge reflected defendant's work hours and took into account travel time.
7. Defendant's employer has rehired defendant to work as the weather improves and work is available. See April 6, 2005 Letter of Tom Russo, attached hereto as Exhibit 1. Defendant and his employer have requested the increased flexibility of two additional hours so that defendant may work during daylight hours and return home in time to comply with the curfew.
8. Pretrial Services, by and through September-Lee Brown, assents to this motion. The government, by and through Antoinette Leoney, does not oppose this motion.

Wherefore, defendant respectfully requests that this Court modify the conditions of release to reset the curfew to 9:00 p.m.

CARLOS RUBEN RIVERA
By his attorney,

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